

Decision 06-02-023 February 16, 2006

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Michael Tran, Thien Nguyen,
Tony Tran DBA Cali-xedo for authority to
operate as a Point to Point Passenger Stage
Partnership between points in Alameda, Santa
Clara and Los Angeles Counties and to establish
a Zone of Rate Freedom.

Application 05-08-039
(Filed August 30, 2005)

O P I N I O N

Summary

This decision grants the application of Michael Tran, Thien Nguyen, and Tony Tran (Applicants), a partnership, pursuant to Pub. Util. Code § 1031 et seq., for a certificate of public convenience and necessity to operate as a passenger stage corporation (PSC), as defined in Pub. Util. Code § 226, and to establish a zone of rate freedom (ZORF) pursuant to Pub. Util. Code § 454.2.

Discussion

The application, as amended by letter dated January 15, 2006, requests authority to operate as a scheduled PSC to transport passengers and their baggage between Garden Grove, on the one hand, and San Jose and Oakland, on the other hand. Applicants' customer base will be primarily non-English speaking passengers, who Applicants state are hesitant to use traditional transportation due to fear of being unable to communicate properly to safely reach their destination. Applicants wish to provide these passengers with safe and easily accessible long distance transportation. One benefit of the service will be to allow families separated by distance to unite on a more frequent basis.

The service will operate one trip in each direction on alternate days using a 44-passenger bus. Applicants indicate that they have transportation and mechanical experience and are familiar with the geography of the areas to be served. Attached to the application as Exhibit C are unaudited balance sheets dated July 1, 2005, which disclose that Applicants have a combined net worth of nearly \$2 million.

The proposed one-way fares, as shown in Exhibit B of the application, are \$39 between Garden Grove and Oakland and \$49 between Garden Grove and San Jose. Applicants request authority to establish a ZORF of \$12 above and below these fares. They will compete with other PSCs, Amtrak, and private automobiles in their service area. This competition should result in Applicants pricing their services at a reasonable level. Many other PSCs have been granted ZORFs. The requested ZORF is generally consistent with the ZORFs held by other PSCs.

Notice of filing of the application appeared in the Commission's Daily Calendar on September 7, 2005. Applicants served notice of the application to the involved cities and counties, and the public transit operators in the service area.

In Resolution ALJ 176-3158 dated September 8, 2005, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protest has been received. Given this status, public hearing is not necessary, and it is not necessary to alter the preliminary determinations made in Resolution ALJ 176-3158.

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Pub. Util. Code § 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

Assignment of Proceeding

Richard Clark is the assigned Examiner in this proceeding.

Findings of Fact

1. The application, as amended, requests authority to operate as a scheduled PSC to transport passengers and their baggage between Garden Grove, on the one hand, and San Jose and Oakland, on the other hand. Public convenience and necessity requires the proposed service.
2. Applicants request authority to establish a ZORF of \$12 above and below the proposed fares shown in Exhibit B of the application.
3. Applicants will compete with other PSCs, Amtrak, and private automobiles in their operations. The ZORF is fair and reasonable.
4. No protest to the application has been filed.
5. A public hearing is not necessary.
6. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

Conclusions of Law

1. Public convenience and necessity has been demonstrated and the application should be granted.
2. The request for a ZORF should be granted.
3. Before Applicants change any fares under the ZORF authorized below, Applicants should give this Commission at least ten days' notice. The tariff should show the high and low ends of the ZORF and the then currently effective fare between each pair of service points.
4. Since the matter is uncontested, the decision should be effective on the date it is signed.

5. Only the amount paid to the State for operative rights may be used in rate fixing. The State may grant any number of rights and may cancel or modify the monopoly feature of these rights at any time.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity (CPCN) is granted to Michael Tran, Thien Nguyen, and Tony Tran (Applicants), a partnership, authorizing them to operate as a passenger stage corporation (PSC), as defined in Pub. Util. Code § 226, to transport passengers and their baggage between the points and over the routes set forth in Appendix PSC-20026, subject to the conditions contained in the following paragraphs.

2. Applicant shall:

- a. File a written acceptance of this certificate within 30 days after this order is effective.
- b. Establish the authorized service and file tariffs and timetables within 120 days after this order is effective.
- c. File tariffs on or after the effective date of this order. They shall become effective ten days or more after the effective date of this order, provided that the Commission and the public are given not less than ten days' notice.
- d. Comply with General Orders Series 101 and 158, and the California Highway Patrol (CHP) safety rules.
- e. Comply with the controlled substance and alcohol testing certification program pursuant to Pub. Util. Code § 1032.1 and General Order Series 158.
- f. Remit to the Commission the Transportation Reimbursement Fee required by Pub. Util. Code § 423 when notified by mail to do so.

- g. Comply with Pub. Util. Code §§ 460.7 and 1043, relating to the Workers' Compensation laws of this state.
 - h. Enroll all drivers in the pull notice system as required by Section 1808.1 of the Vehicle Code.
3. Applicants are authorized under Pub. Util. Code § 454.2 to establish a zone of rate freedom (ZORF) of \$12 above and below the proposed fares shown in Exhibit B of the application.
4. Applicants shall file a ZORF tariff in accordance with the application on not less than ten days' notice to the Commission and to the public. The ZORF shall expire unless exercised within 120 days after the effective date of this order.
5. Applicants may make changes within the ZORF by filing amended tariffs on not less than ten days' notice to the Commission and to the public. The tariff shall include the authorized maximum and minimum fares and the fare to be charged between each pair of service points.
6. In addition to posting and filing tariffs, Applicants shall post notices explaining fare changes in their terminals and passenger-carrying vehicles. Such notices shall be posted at least ten days before the effective date of the fare changes and shall remain posted for at least 30 days.
7. Applicants are authorized to begin operations on the date that the Consumer Protection and Safety Division mails a notice to Applicants that their evidence of insurance and other documents required by Ordering Paragraph 2 have been filed with the Commission and that the CHP has approved the use of Applicants' vehicles for service.
8. Before beginning service to any airport, Applicants shall notify the airport's governing body. Applicants shall not operate into or on airport property unless such operations are authorized by the airport's governing body.

9. The CPCN to operate as PSC-20026, granted herein, expires unless exercised within 120 days after the effective date of this order.

10. The Application is granted as set forth above.

11. This proceeding is closed.

This order is effective today.

Dated February 16, 2006, at San Francisco, California.

MICHAEL R. PEEVEY

President

GEOFFREY F. BROWN

DIAN M. GRUENEICH

JOHN A. BOHN

RACHELLE B. CHONG

Commissioners

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY
AS A PASSENGER STAGE CORPORATION
PSC-20026

Showing passenger stage operative rights, restrictions,
limitations, exceptions, and privileges.

All changes and amendments as authorized by
the Public Utilities Commission of the State of California
will be made as revised pages or added original pages.

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SECTION I. GENERAL AUTHORIZATIONS, RESTRICTIONS,
LIMITATIONS, AND SPECIFICATIONS.

Michael Tran, Thien Nguyen, and Tony Tran, a partnership, by the certificate of public convenience and necessity granted by the decision noted in the foot of the margin, are authorized to transport passengers and their baggage on a scheduled basis between the points described in Section II, over the routes described in Section III, subject, however, to the authority of this Commission to change or modify this authority at any time and subject to the following provisions:

- A. When a route description is given in one direction, it applies to operation in either direction unless otherwise indicated.
- B. Service will be operated only at the points described in Section II and over the routes described in Section III. A description of all the stop points and the arrival and departure times from such points shall be indicated in the timetable filed with the Commission.
- C. No passengers shall be transported between points described in Section IIA or between points described in Section IIB.
- D. This certificate does not authorize the holder to conduct any operation on the property of any airport unless such operation is authorized by the airport authority involved.

SECTION II. SERVICE AREA.

A. Points in the City of Garden Grove

B. Points in the Cities of San Jose and Oakland

SECTION III. ROUTE DESCRIPTION.

Commencing from Garden Grove, then over the most convenient streets and highways to San Jose, then to Oakland.